

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STEVEN DEGRAFF,

Plaintiff,

v.

No. 10-cv-0988 JAP/SMV

**NEW MEXICO DEPARTMENT
OF CORRECTIONS, et al.,**

Defendants.

**ORDER QUASHING ORDER TO SHOW CAUSE AND FOR
SUPPLEMENTAL MARTINEZ REPORT**

This matter is before the Court for an order quashing the Court's Order to Show Cause [Doc. 63] ("OTSC"), filed August 24, 2012. The Court filed the OTSC after being informed telephonically that Guadalupe County Correctional Facility ("GCCF") staff had been providing Plaintiff with a kosher diet since March 23, 2012. Because Plaintiff's complaint concerns his request for a kosher diet, the Court ordered Plaintiff to show cause why his case should not be dismissed as moot. *Id.* Plaintiff's response appears to concede that he has been receiving kosher meals but he contends that his claims are not moot because, (i) the meals are not actually kosher because they are not prepared in a kosher setting and they are co-mingled with non-kosher kitchen materials, and (ii) the denial of a kosher meal plan is "reasonably likely to recur" if he is ever transferred to a new correctional facility. Plaintiff's Response to Order to Show Cause [Doc. 65] ("Response") at 1-6. Having considered Plaintiff's Response and the absence of any evidence in the record concerning the provision of kosher meals to Plaintiff since March of 2012, the Court finds that the Order to Show Cause should be quashed. The Court will required Defendants to submit a supplemental

Martinez Report establishing, through competent evidence, that Plaintiff is being provided with a kosher diet. *See Martinez v. Aaron*, 570 F.2d 317, 319-20 (10th Cir. 1978).

IT IS THEREFORE ORDERED that the Court's Order to Show Cause [Doc. 63] be **QUASHED**.

IT IS FURTHER ORDERED that Defendants shall provide a supplemental *Martinez* Report establishing through affidavits and/or documentary evidence, (i) whether Plaintiff is currently being provided with a kosher diet or not, (ii) whether the kosher diet is being prepared in accordance with New Mexico Corrections Department Policy and Procedure CD-101401(D)(2) (“Approved religious diets shall be prepared according to religious dietary requirements.”). Defendants’ supplemental *Martinez* Report shall be due within thirty days of this Order.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge